

## **February 7, 2011 – 10:00 A.M. – DRAINAGE BOARD MEETING – Newton County Courthouse**

The Newton County Drainage Board met on February 7, 2011 at 10:00 A.M. in the Newton County Courthouse. Present were Board Members Chr. Russell Collins, James Pistello and Tim Drenth; Surveyor Chris Knochel; County Engineer Larry Holderly; Drainage Board Attorney Dan Blaney; Secretary Debra Honn.

The meeting was opened by Russ.

**MINUTES** – The first item on the agenda was the minutes from the previous January 18<sup>th</sup> meeting. **Tim made a motion to approve the minutes with a second motion from Jim.**

**Motion carried.**

**BIRCHTREE ESTATES SUBDIVISION – GARY COLEMAN OBSTRUCTION** - Joe Morrison was present as legal representative for Gary Coleman who was also present. Joe is trying to uncover facts and understand what is going on in this situation. It is Joe's understanding that all was approved by the county 10 years ago when Gary got a permit and now we are asking him to move his mobile home. The subdivision when it was platted did not display an easement or a drain as stated by Chris. Joe asked how we proceed if there is no easement. The drain was filled and a building was placed over the drain. According to Chris when Mr. Coleman submitted his application as part of his permit he did not show how he had changed the drainage on that property. The original permit showed the drainage and the ditch and everything but subsequently when Mr. Coleman submitted his permit, he did not display any drainage on that or how he changed anything therefore the building commissioner did not know he needed to contact drainage board, surveyors office or any number of agencies. It happened about 10 years ago. Joe stated he understood that Gary covered the ditch, put the trailer in and it was all okayed by the county. According to Butch Cain the previous trailer sat the other direction and was not over the drain or culvert. Joe asked, if there is no easement and no legal drain, then why does the trailer need moved? Chris stated it is not an easement question but rather an obstruction question. Even though water is draining properly now, Chris stated that the trailer will always be an obstruction. Russ mentioned that we had tried to go around the trailer as it sits however that also would create problems due to other buildings on the lot. Larry confirmed that there is a 10% reduction in the way the ditch is currently. Joe asked what the deciding authority is if there is no easement and no legal drain. Chris stated that Statute IC 36-9-27.4 is the governing authority to proceed with the ditch. It would be interpreted as removing the obstruction which in this case is the home. Dan Blaney stated that before Gary's attorney was involved, Gary said he would move his home but has since changed his mind. Larry added that the reduction comes from water on the north side of the road that drains into the ditch. His gut opinion is that Gary's pipe is not hurting anything. However if his pipe causes problems then the pipe under the road will also cause problems. If the subdivision ditch is cleaned then there will be an increase in flow. Chris stated it is the only drain for Maple Brook Phase II and with the current obstruction nobody will ever be able to work on the drain. It was determined that Dan Blaney, Drainage Board Attorney, would meet with Gary Coleman and his attorney, Joe Morrison, before the next meeting in order to search for a resolution in this issue.

**OAKWOOD ACRES SUBDIVISION LATERAL** – Mrs. Hunter was present. Christ stated that the ditch is found on 2 sides of their property. Health department OK'd placement of the septic which reduced the buildable area. Chris requested that trees be removed from the side where the ditch wraps around on the other side of the ditch. Mrs. Hunter stated that they were taxed on .98 acres and has less than ½ an acre after the easement. She felt it was unfair and wasn't aware of this at the time of purchase. She feels it is unfair that while she pays taxes on her property she is unable to use ½ of it due to easement. She stated that the fence was placed by the previous owner and the property was purchased as protection for her children. She said the whole fence would have to be broken in order to be moved which would require time and money of which they do not have. Russ asked if we could work from the other side to which Chris stated one side has the fence and another side has the septic. Russ asked about a reduced easement. Jim suggested reducing the easement to 25' on the side with the fence to which Mrs. Hunter stated that the entire property is surrounded by fence. Even though the easement would be reduced to 25' the fence would still need to be moved. There are fruit trees that are also found in the easement area. Jim stated that once the fence is removed the Hunters would lose use of that 25'. Larry thinks since it is a platted subdivision that it must go before the Planning Commission before the easement can be reduced. Jim said that the Drainage Board has the right to reduce easement and Chris agreed that the Drainage Board could reduce it to the certain 25'. Larry said he believed that the board could give variance but didn't think they could reduce the easement since it is a platted subdivision. We are unable to go onto the property on the septic side and the other side with the fence also has a building in the easement that was built by the next door neighbor. She does not feel the white vinyl fence can be removed without breaking it. Mrs. Hunter gave permission for the county to reduce the easement to 25' on the south side and to attempt to salvage the fence or replace it if broken and agreed to have it moved out of the easement by 25'. Chris is to get the cost estimate from FCC to remove the fence and replace the fence inward 25'. Larry suggested a gate in the fence in case the landowner needed to get to the other side of the fence. Jim suggested that Chris also get an estimate on the other properties in the subdivision that would be affected with the same situation. Mr. Hunter asked how long it had been since the ditch was cleaned to which Chris stated it hadn't been cleaned since the subdivision was established. Russ stated that we try to do a drainage plan to alleviate any problems we might have.

**MAPLEBROOK TERRACE SUBDIVISION/DENHAM SUBDIVISION LATERAL** - Chris stated he had been working with Dan Blaney in regard to this issue where the utility company utilized the drainage easement for their utility poles. Chris stated that Nipsco is concerned that if we force them to clean the drainage easement they are utilizing, that we will come back on Nipsco then and ask them to move their utility out of our exclusive drainage easement. They don't want to have to do both. Dan suggested that we pass the resolution that what is there is there and if they clean it we are not going to come along and tell them to move the poles. It is on the west end of the subdivision. Jim asked if we clean the ditch is it going to hurt the poles. Chris stated we can go in with bobcats or mini excavator to dig. We will only be correcting the grade not digging deep enough to threaten the poles. Dan stated that the

trees sit close to the power lines and suggested we get a release from Nipsco to clean the ditch. Jim suggested that we have Nipsco come and trim the trees. Dan stated we need a mutual agreement with Nipsco.

**DEHAAN DITCH STATUS** – Chris has not heard anything from Abonmarche yet and the report is needed for the Bi-County Drainage Board Meeting. Chris has been getting copies from the permitting process however they have failed to return his calls.

**HEC, LLC REPORT** – Chris mentioned that Mick Murfitt of Heyde Engineering is present to give a report with recommendations on the Hibler System (Valley Forge, Hibler Ditch, North Newton Woods Subdivision, Makeever Laterals, and Hidden Pines Subdivision & Laterals). Field work that has been done includes beginning and ending elevations, discovery and recommendations. Our recommendations are to clean up trees and finish measurements for the laterals that have not been completed other than profiles. Jim asked about the flow of Valley Forge and asked Chris what he is doing with 4' of material. Chris suggested placing it in the easement or hauling it out. There are landowners that need it along the Kankakee for levee repair which is a good outlet within close proximity. Heyde provides us with much more than what appears on paper. We now know how things are supposed to be. Most of the Insalaco Lateral has been re-routed and re-directed as determined by HEC, but Chris stated when exactly that happened, he doesn't know. The only thing that remains is the 800' of the original drain and the open ditch that goes on to the east. Dan asked if Mick is making recommendations to the board today. Mick suggested that on the Hibler Main the cross section and profile be completed so we have measurements of the full length of drain, re-align culverts, including one under 500 E, remove all material and sediment buildup. The first recommendation is under discovery for exploratory work and then also a washed out control structure that is causing erosion. There is a 5-6 foot gap there that will just continue to wash out the bank. Larry stated that downstream at 400 E and 1200 N there is a dam/controlled structure. Chris thought they had a permit and said there is plenty of fall there. Dan mentioned that this is a major undertaking and Chris stated it would take care of these subdivisions. Jim asked where we want to go next. It was previously decided to complete the project all at once. The board needs to know how many landowners are in the watershed and how much money will be brought in with assessment. Chris stated we have enough information now to begin defining the watershed to which Jim stated we will need the money in order to continue maintenance. Heyde Engineering has helped us define the area. Chris asked how much more the board wants them to do to continue with this.

**IROQUOIS RIVER CONSERVANCY DISTRICT** – Chris stated we have been requested to do an economic telephone survey for the IRCD in order to apply for a federal grant. Deb proposed that we secure someone for a day or two to make the necessary calls and pay them from the available funds in part-time drainage board help. Russ said if we know of someone to go ahead and get them to come in and make the calls. Dan stated he knew of someone that could help with this project.

**DITCHES TO BE CERTIFIED FOR ANNUAL ASSESSMENT – 2011** – Postponed until Feb. 22<sup>nd</sup>.

**OTHER DITCH ISSUES– Foresman Drain** – Deb reported that on 2/1/10 the board decided not to assess this drain and that there is an outstanding balance of \$3,156.00. Jim stated it was

previously agreed by the board on 2/1/10 that the board would absorb the cost of this. Dan Blaney suggested that there be a special line item for monies from the landfill funds to cover instances such as this. **Upper Haynes Tile** owes the General Drain Improvement Fund \$21,163.00 and at the time the board decided to go to the council and ask for the money. Deb asked if this had been done as the balance is still showing on this. Jim stated this needs to be recouped somehow and determination made of when and why this was done. Chris said it was a project initiated by INDOT on SR 55. The expenses originated from replacing the tile. It is not currently being assessed. Chris had to dedicate this drain to INDOT and stated it ends south of the corner into the regulated drain. Since it was a dedicated drain and nobody could hook on, it is only for SR55 and INDOT. **The Holley Tile Lateral** owes \$618.35 to General Drain Improvement Fund and was last assessed in 2009. Board determined to assess again. **Monjon Tile** owes GDIF \$1686.00 and is scheduled to be assessed in 2011 at a rate of \$.68/ac. Deb suggested raising the assessment the allowed 25% since there has never been an increase. This would give us an extra \$483 from assessment fees. **Jim made the motion to increase the assessment the allowed 25% with a second from Tim. Motion carried.**

**Upper Kindig** – Bi-County Board made a motion to increase the assessment rate on 8/25/2009 from \$1 to \$3.00. For some reason the increase was overlooked in 2010 so it will begin in 2011. **Clark-Deardurff** – Was last assessed in 2008 and the fund balance is less than the four year assessment. The board therefore decided to assess for one more year.

**Herman Deardurff Tile** – Last assessed in 2003 and again fund balance is below 4 yr. assessment so board decided to begin assessments. **McCray-Ade** – Back in September 2005, it was decided that the \$14,680.00 of engineering expenses to Beam, Longest and Neff be paid out of the Commissioners Contractual Fund and that the assessment remain at \$1.00. There is still a balance out there and Deb asked for confirmation that the payment had been made. There is still a balance of \$6792.06 owed to the GDIF. We need to research to see where this came from and assess if necessary. Russ is sure that we paid the engineering costs.

The **John Guildenzoph Tile** contract was signed designating Matt DeYoung Drainage & Excavating as the contractor.

Jim made the motion to adjourn with a second from Tim. Motion carried.